

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 521

Introduced by Pankonin, 2.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to learning communities; to amend sections
2 79-1241.03 and 79-2104, Reissue Revised Statutes
3 of Nebraska, and section 77-3442, Revised Statutes
4 Cumulative Supplement, 2008; to provide for additional
5 tax levy authority; to harmonize provisions; and to
6 repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3442, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-3442 (1) Property tax levies for the support of local
4 governments for fiscal years beginning on or after July 1, 1998,
5 shall be limited to the amounts set forth in this section except as
6 provided in section 77-3444.

7 (2) (a) Except as provided in subdivision (2) (e) of this
8 section, school districts and multiple-district school systems,
9 except learning communities and school districts that are members
10 of learning communities, may levy a maximum levy of one dollar and
11 five cents per one hundred dollars of taxable valuation of property
12 subject to the levy.

13 (b) For each fiscal year, learning communities may levy
14 a maximum levy for the general fund budgets of member school
15 districts of ninety-five cents per one hundred dollars of taxable
16 valuation of property subject to the levy. The proceeds from the
17 levy pursuant to this subdivision shall be distributed pursuant to
18 section 79-1073.

19 (c) Except as provided in subdivision (2) (e) of this
20 section, for each fiscal year, school districts that are members
21 of learning communities may levy for purposes of such districts'
22 general fund budget and special building funds a maximum combined
23 levy of the difference of one dollar and five cents on each one
24 hundred dollars of taxable property subject to the levy minus
25 the learning community levies pursuant to subdivisions (2) (b) and

1 (2)(g) of this section for such learning community.

2 (d) Excluded from the limitations in subdivisions (2)(a)
3 and (2)(c) of this section are amounts levied to pay for
4 sums agreed to be paid by a school district to certificated
5 employees in exchange for a voluntary termination of employment
6 and amounts levied to pay for special building funds and sinking
7 funds established for projects commenced prior to April 1, 1996,
8 for construction, expansion, or alteration of school district
9 buildings. For purposes of this subsection, commenced means any
10 action taken by the school board on the record which commits
11 the board to expend district funds in planning, constructing, or
12 carrying out the project.

13 (e) Federal aid school districts may exceed the maximum
14 levy prescribed by subdivision (2)(a) or (2)(c) of this section
15 only to the extent necessary to qualify to receive federal aid
16 pursuant to Title VIII of Public Law 103-382, as such title existed
17 on September 1, 2001. For purposes of this subdivision, federal
18 aid school district means any school district which receives ten
19 percent or more of the revenue for its general fund budget from
20 federal government sources pursuant to Title VIII of Public Law
21 103-382, as such title existed on September 1, 2001.

22 (f) For school fiscal year 2002-03 through school fiscal
23 year 2007-08, school districts and multiple-district school systems
24 may, upon a three-fourths majority vote of the school board of
25 the school district, the board of the unified system, or the

1 school board of the high school district of the multiple-district
2 school system that is not a unified system, exceed the maximum
3 levy prescribed by subdivision (2) (a) of this section in an amount
4 equal to the net difference between the amount of state aid that
5 would have been provided under the Tax Equity and Educational
6 Opportunities Support Act without the temporary aid adjustment
7 factor as defined in section 79-1003 for the ensuing school fiscal
8 year for the school district or multiple-district school system
9 and the amount provided with the temporary aid adjustment factor.
10 The State Department of Education shall certify to the school
11 districts and multiple-district school systems the amount by which
12 the maximum levy may be exceeded for the next school fiscal year
13 pursuant to this subdivision (f) of this subsection on or before
14 February 15 for school fiscal years 2004-05 through 2007-08.

15 (g) For each fiscal year, learning communities may levy a
16 maximum levy of two cents on each one hundred dollars of taxable
17 property subject to the levy for special building funds for member
18 school districts. The proceeds from the levy pursuant to this
19 subdivision shall be distributed pursuant to section 79-1073.01.

20 (h) For each fiscal year, learning communities may levy
21 a maximum levy of (i) five cents on each one hundred dollars of
22 taxable property subject to the levy for elementary learning center
23 facilities and for up to fifty percent of the estimated cost for
24 capital projects approved by the learning community coordinating
25 council pursuant to section 79-2111 and (ii) one-fourth of one cent

1 on each one hundred dollars of taxable property subject to the levy
2 to be used for learning community general fund purposes pursuant
3 to sections 79-2104 and 79-2115, with the approval of the learning
4 community coordinating council.

5 (3) Community colleges may levy a maximum levy calculated
6 pursuant to the Community College Foundation and Equalization Aid
7 Act on each one hundred dollars of taxable property subject to the
8 levy.

9 (4) (a) Natural resources districts may levy a maximum
10 levy of four and one-half cents per one hundred dollars of taxable
11 valuation of property subject to the levy.

12 (b) Natural resources districts shall also have the power
13 and authority to levy a tax equal to the dollar amount by which
14 their restricted funds budgeted to administer and implement ground
15 water management activities and integrated management activities
16 under the Nebraska Ground Water Management and Protection Act
17 exceed their restricted funds budgeted to administer and implement
18 ground water management activities and integrated management
19 activities for FY2003-04, not to exceed one cent on each one
20 hundred dollars of taxable valuation annually on all of the taxable
21 property within the district.

22 (c) In addition, natural resources districts located in
23 a river basin, subbasin, or reach that has been determined to
24 be fully appropriated pursuant to section 46-714 or designated
25 as overappropriated pursuant to section 46-713 by the Department

1 of Natural Resources shall also have the power and authority to
2 levy a tax equal to the dollar amount by which their restricted
3 funds budgeted to administer and implement ground water management
4 activities and integrated management activities under the Nebraska
5 Ground Water Management and Protection Act exceed their restricted
6 funds budgeted to administer and implement ground water management
7 activities and integrated management activities for FY2005-06, not
8 to exceed three cents on each one hundred dollars of taxable
9 valuation on all of the taxable property within the district for
10 fiscal year 2006-07 and each fiscal year thereafter through fiscal
11 year 2011-12.

12 (5) Any educational service unit authorized to levy a
13 property tax pursuant to section 79-1225 may levy a maximum levy of
14 one and one-half cents per one hundred dollars of taxable valuation
15 of property subject to the levy.

16 (6)(a) Incorporated cities and villages which are not
17 within the boundaries of a municipal county may levy a maximum levy
18 of forty-five cents per one hundred dollars of taxable valuation
19 of property subject to the levy plus an additional five cents per
20 one hundred dollars of taxable valuation to provide financing for
21 the municipality's share of revenue required under an agreement
22 or agreements executed pursuant to the Interlocal Cooperation Act
23 or the Joint Public Agency Act. The maximum levy shall include
24 amounts levied to pay for sums to support a library pursuant
25 to section 51-201, museum pursuant to section 51-501, visiting

1 community nurse, home health nurse, or home health agency pursuant
2 to section 71-1637, or statue, memorial, or monument pursuant to
3 section 80-202.

4 (b) Incorporated cities and villages which are within the
5 boundaries of a municipal county may levy a maximum levy of ninety
6 cents per one hundred dollars of taxable valuation of property
7 subject to the levy. The maximum levy shall include amounts paid
8 to a municipal county for county services, amounts levied to pay
9 for sums to support a library pursuant to section 51-201, a museum
10 pursuant to section 51-501, a visiting community nurse, home health
11 nurse, or home health agency pursuant to section 71-1637, or a
12 statue, memorial, or monument pursuant to section 80-202.

13 (7) Sanitary and improvement districts which have been in
14 existence for more than five years may levy a maximum levy of forty
15 cents per one hundred dollars of taxable valuation of property
16 subject to the levy, and sanitary and improvement districts which
17 have been in existence for five years or less shall not have
18 a maximum levy. Unconsolidated sanitary and improvement districts
19 which have been in existence for more than five years and are
20 located in a municipal county may levy a maximum of eighty-five
21 cents per hundred dollars of taxable valuation of property subject
22 to the levy.

23 (8) Counties may levy or authorize a maximum levy of
24 fifty cents per one hundred dollars of taxable valuation of
25 property subject to the levy, except that five cents per one

1 hundred dollars of taxable valuation of property subject to the
2 levy may only be levied to provide financing for the county's
3 share of revenue required under an agreement or agreements executed
4 pursuant to the Interlocal Cooperation Act or the Joint Public
5 Agency Act. The maximum levy shall include amounts levied to pay
6 for sums to support a library pursuant to section 51-201 or museum
7 pursuant to section 51-501. The county may allocate up to fifteen
8 cents of its authority to other political subdivisions subject
9 to allocation of property tax authority under subsection (1) of
10 section 77-3443 and not specifically covered in this section to
11 levy taxes as authorized by law which do not collectively exceed
12 fifteen cents per one hundred dollars of taxable valuation on any
13 parcel or item of taxable property. The county may allocate to
14 one or more other political subdivisions subject to allocation
15 of property tax authority by the county under subsection (1) of
16 section 77-3443 some or all of the county's five cents per one
17 hundred dollars of valuation authorized for support of an agreement
18 or agreements to be levied by the political subdivision for the
19 purpose of supporting that political subdivision's share of revenue
20 required under an agreement or agreements executed pursuant to the
21 Interlocal Cooperation Act or the Joint Public Agency Act. If an
22 allocation by a county would cause another county to exceed its
23 levy authority under this section, the second county may exceed the
24 levy authority in order to levy the amount allocated.

25 (9) Municipal counties may levy or authorize a maximum

1 levy of one dollar per one hundred dollars of taxable valuation
2 of property subject to the levy. The municipal county may allocate
3 levy authority to any political subdivision or entity subject to
4 allocation under section 77-3443.

5 (10) Property tax levies for judgments, except judgments
6 or orders from the Commission of Industrial Relations, obtained
7 against a political subdivision which require or obligate a
8 political subdivision to pay such judgment, to the extent such
9 judgment is not paid by liability insurance coverage of a
10 political subdivision, for preexisting lease-purchase contracts
11 approved prior to July 1, 1998, for bonded indebtedness approved
12 according to law and secured by a levy on property except as
13 provided in section 44-4317 for bonded indebtedness issued by
14 educational service units and school districts, and for payments by
15 a public airport to retire interest-free loans from the Department
16 of Aeronautics in lieu of bonded indebtedness at a lower cost to
17 the public airport are not included in the levy limits established
18 by this section.

19 (11) The limitations on tax levies provided in this
20 section are to include all other general or special levies
21 provided by law. Notwithstanding other provisions of law, the
22 only exceptions to the limits in this section are those provided by
23 or authorized by sections 77-3442 to 77-3444.

24 (12) Tax levies in excess of the limitations in this
25 section shall be considered unauthorized levies under section

1 77-1606 unless approved under section 77-3444.

2 (13) For purposes of sections 77-3442 to 77-3444,
3 political subdivision means a political subdivision of this state
4 and a county agricultural society.

5 (14) For school districts that file a binding resolution
6 on or before May 9, 2008, with the county assessors, county clerks,
7 and county treasurers for all counties in which the school district
8 has territory pursuant to subsection (7) of section 79-458, if the
9 combined levies, except levies for bonded indebtedness approved by
10 the voters of the school district and levies for the refinancing
11 of such bonded indebtedness, are in excess of the greater of (a)
12 one dollar and twenty cents per one hundred dollars of taxable
13 valuation of property subject to the levy or (b) the maximum
14 levy authorized by a vote pursuant to section 77-3444, all school
15 district levies, except levies for bonded indebtedness approved by
16 the voters of the school district and levies for the refinancing of
17 such bonded indebtedness, shall be considered unauthorized levies
18 under section 77-1606.

19 Sec. 2. Section 79-1241.03, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 79-1241.03 For school fiscal year 2008-09 and each school
22 fiscal year thereafter:

23 (1) One percent of the funds appropriated for core
24 services and technology infrastructure shall be transferred to
25 the Educational Service Unit Coordinating Council. The remainder

1 of such funds shall be distributed pursuant to subdivisions (2)
2 through (6) of this section;

3 (2)(a) The distance education and telecommunications
4 allowance for each educational service unit shall equal eighty-five
5 percent of the difference of the costs for telecommunications
6 services, for access to data transmission networks that transmit
7 data to and from the educational service unit, and for the
8 transmission of data on such networks paid by the educational
9 service unit as reported on the annual financial report for the
10 most recently available complete data year minus the receipts from
11 the federal Universal Service Fund pursuant to 47 U.S.C. 254,
12 as such section existed on January 1, 2007, for the educational
13 service unit as reported on the annual financial report for the
14 most recently available complete data year and minus any receipts
15 from school districts or other educational entities for payment
16 of such costs as reported on the annual financial report of the
17 educational service unit;

18 (b) The base allocation of each educational service unit
19 shall equal two and one-half percent of the funds appropriated for
20 distribution pursuant to this section;

21 (c) The satellite office allocation for each educational
22 service unit shall equal one percent of the funds appropriated
23 for distribution pursuant to this section for each office of
24 the educational service unit, except the educational service unit
25 headquarters, up to the maximum number of satellite offices. The

1 maximum number of satellite offices used for the calculation of
2 the satellite office allocation for any educational service unit
3 shall equal the difference of the ratio of the number of square
4 miles within the boundaries of the educational service unit divided
5 by four thousand minus one with the result rounded to the closest
6 whole number;

7 (d) The statewide adjusted valuation shall equal the
8 total adjusted valuation for all member districts of educational
9 service units pursuant to section 79-1016 used for the calculation
10 of state aid for school districts pursuant to the Tax Equity and
11 Educational Opportunities Support Act for the school fiscal year
12 for which the distribution is being calculated pursuant to this
13 section;

14 (e) The adjusted valuation for each educational service
15 unit shall equal the total adjusted valuation of the member school
16 districts pursuant to section 79-1016 used for the calculation of
17 state aid for school districts pursuant to the act for the school
18 fiscal year for which the distribution is being calculated pursuant
19 to this section, except that such adjusted valuation for member
20 school districts that are also member districts of a learning
21 community shall be reduced by ~~fifty~~ ten percent. The adjusted
22 valuation for each learning community shall equal ~~fifty~~ ten percent
23 of the total adjusted valuation of the member school districts
24 pursuant to section 79-1016 used for the calculation of state aid
25 for school districts pursuant to the act for the school fiscal year

1 for which the distribution is being calculated pursuant to this
2 section;

3 (f) The local effort rate shall equal \$0.0135 per one
4 hundred dollars of adjusted valuation;

5 (g) Except as provided in subdivision (5) of this
6 section, the statewide student allocation shall equal the
7 difference of the sum of the amount appropriated for distribution
8 pursuant to this section plus the product of the statewide adjusted
9 valuation multiplied by the local effort rate minus the distance
10 education and telecommunications allowance, base allocation, and
11 satellite office allocation for all educational service units;

12 (h) The sparsity adjustment for each educational service
13 unit and learning community shall equal the sum of one plus
14 one-tenth of the ratio of the square miles within the boundaries
15 of the educational service unit divided by the fall membership of
16 the member school districts for the school fiscal year immediately
17 preceding the school fiscal year for which the distribution is
18 being calculated pursuant to this section;

19 (i) The adjusted students for each educational service
20 unit shall equal the fall membership for the school fiscal year
21 immediately preceding the school fiscal year for which aid is
22 being calculated of the member school districts that will not
23 be members of a learning community and ~~fifty~~ ten percent of
24 the fall membership for such school fiscal year of the member
25 school districts that will be members of a learning community

1 pursuant to this section multiplied by the sparsity adjustment
2 for the educational service unit, and the adjusted students for
3 each learning community shall equal ~~fifty~~ ten percent of the
4 fall membership for such school fiscal year of the member school
5 districts multiplied by the sparsity adjustment for the learning
6 community;

7 (j) The per student allocation shall equal the statewide
8 student allocation divided by the total adjusted students for all
9 educational service units and learning communities;

10 (k) The student allocation for each educational service
11 unit and learning community shall equal the per student allocation
12 multiplied by the adjusted students for the educational service
13 unit or learning community;

14 (l) The needs for each educational service unit shall
15 equal the sum of the distance education and telecommunications
16 allowance, base allocation, satellite office allocation, and
17 student allocation for the educational service unit and the needs
18 for each learning community shall equal the student allocation for
19 the learning community; and

20 (m) The distribution of core services and technology
21 infrastructure funds for each educational service unit and learning
22 community shall equal the needs for each educational service unit
23 or learning community minus the product of the adjusted valuation
24 for the educational service unit or learning community multiplied
25 by the local effort rate;

1 (3) If an educational service unit is the result of
2 a merger or received new member school districts from another
3 educational service unit, such educational service unit shall,
4 for each of the three fiscal years following the fiscal year in
5 which the merger takes place or the new member school districts
6 are received, receive core services and technology infrastructure
7 funds pursuant to subdivisions (2) through (6) of this section
8 in an amount not less than the core services and technology
9 infrastructure funds received in the fiscal year immediately
10 preceding the merger or receipt of new member school districts,
11 except that if the total amount available to be distributed
12 pursuant to subdivisions (2) through (6) of this section for such
13 year is less than the total amount distributed pursuant to such
14 subdivisions or sections 79-1241 and 79-1243 for the immediately
15 preceding fiscal year, the minimum core services and technology
16 infrastructure funds for each educational service unit pursuant to
17 this subdivision shall be reduced by a percentage equal to the
18 ratio of the difference of the total amount distributed pursuant
19 to subdivisions (2) through (6) of this section or sections
20 79-1241 and 79-1243 for the immediately preceding fiscal year
21 minus the total amount available to be distributed pursuant to
22 subdivisions (2) through (6) of this section for the fiscal year
23 in question divided by the total amount distributed pursuant to
24 subdivisions (2) through (6) of this section or sections 79-1241
25 and 79-1243 for the immediately preceding fiscal year. The core

1 services and technology infrastructure funds received in the fiscal
2 year immediately preceding a merger or receipt of new member
3 school districts for an educational service unit shall equal the
4 amount received in such fiscal year pursuant to subdivisions (2)
5 through (6) of this section or sections 79-1241 and 79-1243 by any
6 educational service unit affected by the merger or the transfer
7 of school districts multiplied by a ratio equal to the valuation
8 that was transferred to or retained by the educational service unit
9 for which the minimum is being calculated divided by the total
10 valuation of the educational service unit transferring or retaining
11 the territory;

12 (4) For fiscal years 2008-09 through 2013-14, each
13 educational service unit which will not have any member school
14 districts that are members of a learning community shall receive
15 core services and technology infrastructure funds under this
16 section in an amount not less than ninety-five percent of the
17 total of the core services and technology infrastructure funds that
18 the educational service unit received in the immediately preceding
19 fiscal year either pursuant to subdivisions (2) through (6) of
20 this section or pursuant to sections 79-1241 and 79-1243, except
21 that if the total amount available to be distributed pursuant to
22 subdivisions (2) through (6) of this section for such year is less
23 than the total amount distributed pursuant to such subdivisions or
24 sections 79-1241 and 79-1243 for the immediately preceding fiscal
25 year, the minimum core services and technology infrastructure funds

1 for each educational service unit pursuant to this subdivision
2 shall be reduced by a percentage equal to the ratio of the
3 difference of the total amount distributed pursuant to subdivisions
4 (2) through (6) of this section or sections 79-1241 and 79-1243
5 for the immediately preceding fiscal year minus the total amount
6 available to be distributed pursuant to subdivisions (2) through
7 (6) of this section for the fiscal year in question divided by the
8 total amount distributed pursuant to subdivisions (2) through (6)
9 of this section or sections 79-1241 and 79-1243 for the immediately
10 preceding fiscal year;

11 (5) If the minimum core services and technology
12 infrastructure funds pursuant to subdivision (3) or (4) of this
13 section for any educational service unit exceed the amount that
14 would otherwise be distributed to such educational service unit
15 pursuant to subdivision (2) of this section, the statewide student
16 allocation shall be reduced such that the total amount to be
17 distributed pursuant to this section equals the appropriation
18 for core services and technology infrastructure funds and no
19 educational service unit receives less than the greater of any
20 minimum amounts calculated for such educational service unit
21 pursuant to subdivisions (3) and (4) of this section; and

22 (6) The State Department of Education shall certify the
23 distribution of core services and technology infrastructure funds
24 pursuant to subdivisions (2) through (6) of this section to each
25 educational service unit and learning community on or before July

1 1, 2008, for school fiscal year 2008-09 and on or before July
2 1 of each year thereafter for the following school fiscal year.
3 Any funds appropriated for distribution pursuant to this section
4 shall be distributed in ten as nearly as possible equal payments
5 on the first business day of each month beginning in September
6 of each school fiscal year and ending in June. Funds distributed
7 to educational service units pursuant to this section shall be
8 used for core services and technology infrastructure with the
9 approval of representatives of two-thirds of the member school
10 districts of the educational service unit, representing a majority
11 of the adjusted students in the member school districts used
12 in calculations pursuant to this section for such funds. Funds
13 distributed to learning communities shall be used for learning
14 community purposes pursuant to sections 79-2104 and 79-2115, with
15 the approval of the learning community coordinating council.

16 For purposes of this section, the determination of
17 whether or not a school district will be a member of an educational
18 service unit or a learning community shall be based on the
19 information available May 1 for the following school fiscal year.

20 Sec. 3. Section 79-2104, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-2104 A learning community coordinating council shall
23 have the authority to:

24 (1) Levy and distribute a common levy for the general
25 funds of member school districts pursuant to sections 77-3442 and

1 79-1073;

2 (2) Levy and distribute a common levy for the special
3 building funds of member school districts pursuant to sections
4 77-3442 and 79-1073.01;

5 (3) Levy for capital projects approved by the learning
6 community coordinating council pursuant to sections 77-3442 and
7 79-2111;

8 (4) Levy for learning community general fund purposes
9 pursuant to section 77-3442;

10 ~~(4)~~ (5) Collect, analyze, and report data and
11 information, including, but not limited to, information provided by
12 a school district pursuant to subsection (5) of section 79-201;

13 ~~(5)~~ (6) Approve focus schools and focus programs to be
14 operated by member school districts;

15 ~~(6)~~ (7) Adopt, approve, and implement a diversity plan
16 which shall include open enrollment and may include focus schools,
17 focus programs, magnet schools, and pathways pursuant to section
18 79-2110;

19 ~~(7)~~ (8) Administer the open enrollment provisions in
20 section 79-2110 for the learning community as part of a diversity
21 plan developed by the council to provide educational opportunities
22 which will result in increased diversity in schools across the
23 learning community;

24 ~~(8)~~ (9) Annually conduct school fairs to provide
25 students and parents the opportunity to explore the educational

1 opportunities available at each school in the learning community
2 and develop other methods for encouraging access to such
3 information and promotional materials;

4 ~~(9)~~ (10) Develop and approve reorganization plans for
5 submission pursuant to the Learning Community Reorganization Act;

6 ~~(10)~~ (11) Establish and administer elementary learning
7 centers through achievement subcouncils pursuant to sections
8 79-2112 to 79-2114;

9 ~~(11)~~ (12) Administer the learning community funds
10 distributed to the learning community pursuant to section 79-2111;

11 ~~(12)~~ (13) Approve or disapprove poverty plans and limited
12 English proficiency plans for member school districts through
13 achievement subcouncils established under section 79-2117;

14 ~~(13)~~ (14) Establish a procedure for receiving community
15 input and complaints regarding the learning community; and

16 ~~(14)~~ (15) Establish a procedure to assist parents,
17 citizens, and member school districts in accessing an approved
18 center pursuant to the Dispute Resolution Act to resolve disputes
19 involving member school districts or the learning community. Such
20 procedure may include payment by the learning community for some
21 mediation services.

22 Sec. 4. Original sections 79-1241.03 and 79-2104, Reissue
23 Revised Statutes of Nebraska, and section 77-3442, Revised Statutes
24 Cumulative Supplement, 2008, are repealed.